

Message Text

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AMEMBASSY THE HAGUE

USMISSION EC BRUSSELS

USMISSION OECD PARIS

USMISSION GENEVA

USMISSION IAEA VIENNA

ERDA GERMANTOWN

C O N F I D E N T I A L BRUSSELS 03557

E.O. 11652: GDS

TAGS: ENRG, PARM, TECH, BE, EEC

SUBJECT:BELGIAN CONCERNS ON LONDON SUPPLIERS' AGREEMENT AND US
NON-PROLIFERATION POLICY

REF: BRUSSELS 3056 (NOTAL), EC BRUSSELS 3170 (NOTAL)

1. SUMMARY: EMBASSY AND USEC/ERDA FURTHER DISCUSSED BELGIAN
CONCERNS DESCRIBED IN REFTELS. THE BELGIAN GOVERNMENT IS
HOPEFUL THERE WILL BE ACCEPTANCE OF A EUROPEAN COMMISSION
PROPOSAL TO ESTABLISH COMMUNITY PHYSICAL SECURITY CONTROLS
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WHICH WILL MEET THE STANDARDS OF THE LONDON GUIDELINES.

BELGIUM'S CHIEF CONCERN APPEARS TO BE POLITICAL AND LEGAL; I.E., THAT PRECEDENT TREATY OBLIGATIONS MUST BE RESPECTED BY THE UK, THE FRG, AND ESPECIALLY FRANCE. THE BELGIAN WORRY THAT ADHERENCE TO THE LONDON GUIDELINES MIGHT, UNDER CERTAIN CIRCUMSTANCES, HAVE ADVERSE EFFECTS ON BELGIUM'S NUCLEAR INDUSTRY SEEMS MORE HYPOTHETICAL THAN REAL. END SUMMARY.

2. WE CALLED ON MLE. HERPELS OF THE BELGIAN FOREIGN MINISTRY'S SCIENCE OFFICE ON APRIL 2, ACCOMPANIED BY A REPRESENTATIVE OF ERDA/BRUSSELS. WE SOUGHT A CLEARER IDEA OF THE NATURE OF THE BELGIAN CONCERNS DESCRIBED IN REFTELS. WE WERE PARTICULARLY INTERESTED IN UNDERSTANDING BETTER HOW BELGIUM SEES THE LONDON SUPPLIERS' AGREEMENT AS A POTENTIAL SOURCE OF ECONOMIC TROUBLE FOR THE BELGIAN NUCLEAR POWER INDUSTRY.

3. ON THAT POINT, HERPELS CITED HYPOTHETICAL CASES IN WHICH BELGIUM COULD BE ADVERSELY AFFECTED BY ADHERING TO THE LONDON GUIDELINES IF OTHER EC COUNTRIES REMAINED OUTSIDE (UNLESS COMMUNITY CONTROLS WERE ESTABLISHED WHICH WOULD MEET THE PHYSICAL SECURITY STANDARDS OF THE LONDON GROUP). ONE SUCH CASE INVOLVES THE POSSIBILITY THAT BELGIAN NUCLEAR FIRMS MIGHT, FOR COMPETITIVE REASONS, SET UP SUBSIDIARIES IN NON-ADHERING EC COUNTRIES AS CHANNELS FOR SALES OF NUCLEAR MATERIAL OR TECHNOLOGY--ESPECIALLY THE LATTER--TO NON-EC NON-SUPPLIER COUNTRIES. IN THIS HYPOTHETICAL CASE, BELGIUM WOULD REFUSE TO PERMIT SALES DIRECTLY, BECAUSE OF ITS ADHERENCE TO THE GUIDELINES, BUT THE SALE WOULD BE MADE ANYWAY THROUGH THE EC COUNTRY NOT BOUND BY THE GUIDELINES.

4. ANOTHER CASE OCCURS IF A FOREIGN-OWNED BELGIAN NUCLEAR FACILITY WERE DISCRIMINATED AGAINST BY ITS PARENT COMPANY LOCATED IN ANOTHER EC COUNTRY BECAUSE OF DIFFERING INTERPRETATIONS OF THE GUIDELINES IN THE TWO COUNTRIES. IN THIS CASE, THE BELGIAN FIRM WOULD BE DENIED CERTAIN WORK, PARTLY AS A RESULT OF BELGIAN ADHERENCE TO THE LONDON GUIDELINES.

5. COMMENT: THESE EXAMPLES WERE NARRATED AS THOUGH THEY
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WERE ALMOST PURELY HYPOTHETICAL; THE SORT OF THING LEGAL EXPERTS THINK UP WHEN THEY ARE ANALYZING A DRAFT PROPOSAL. THEY WERE NOT FLESHED OUT AS REAL OR IMMEDIATE CONCERNS VOICED ON BEHALF OF BELGIAN INDUSTRY. END COMMENT.

6. HERPELS EXPRESSED THE POLITICAL-CUM-LEGAL CONCERNS OF THE BELGIAN GOVERNMENT, DESCRIBED IN REFTELS, WITH GREATER CLARITY AND VIGOR. SHE SAID THAT THE EUROPEAN COMMISSION

HAD DRAFTED A PROPOSAL FOR FIRST CONSIDERATION BY THE COMMITTEE OF PERMANENT REPRESENTATIVES (COREPER) THE WEEK OF APRIL 5, UNDER WHICH THE EC WOULD ADOPT UNIFORM NUCLEAR PHYSICAL SECURITY STANDARDS, CONSISTENT WITH AND EQUIVALENT TO THOSE IN THE LONDON SUPPLIERS' GUIDELINES. HERPELS THINKS THAT THE PROPOSAL WILL BE SUPPORTED BY ALL EC MEMBERS, WITH THE POSSIBLE EXCEPTION OF FRANCE. SHE CITED A BRITISH MINISTERIAL ANSWER TO A PARLIAMENTARY QUESTION AS EVIDENCE THAT THE UK WILL SUPPORT STRENGTHENING OF EURATOM CONTROLS, AND SAID THAT THE FRG WOULD ALSO FAVOR IT. SHE ALSO ANTICIPATES SUPPORT FROM ALL THE SMALLER EC STATES, INCLUDING THE NETHERLANDS (WHICH JOINED THE LONDON GROUP IN TIME FOR THE MARCH 31 MEETING). HERPELS SAID THAT THERE HAD RECENTLY BEEN CONSULTATION BETWEEN THE BELGIANS AND THE DUTCH, AND THE LATTER UNDERSTAND AND WILL SUPPORT THE BELGIAN INITIATIVE IN THE EC.

7. BELGIUM HAS RAISED IN COREPER THE QUESTION OF OBTAINING ASSURANCES FROM THE ORIGINAL THREE EC MEMBERS OF THE LONDON GROUP THAT THERE WILL NOT BE ANY INTERFERENCE WITH THE EURATOM TREATY REQUIREMENTS OF FREE FLOW OF MATERIAL. THEY ANTICIPATE RECEIVING A REPLY AT COREPER ON APRIL 8. THE EC IS PREPARING AN APPROPRIATE DISCLAIMER FOR USE IN MEMBER STATE ADHERENCE TO THE LONDON AGREEMENT.

8. HERPELS TOLD US THAT AGREEMENT FOR THE BELGIAN GOVERNMENT TO ATTEND THE MARCH 31 LONDON GROUP MEETING WITH "OBSERVER" STATUS WAS RECEIVED TOO LATE TO INSTRUCT AND SEND A DELEGATION FROM BRUSSELS. AS A RESULT, BELGIUM WAS REPRESENTED BY AN OFFICER OF THEIR EMBASSY IN LONDON, WHO TOOK NO ACTIVE PART IN THE PROCEEDINGS.

9. HERPELS RAISED THE FOLLOWING ADDITIONAL POINTS:
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--THE BELGIAN WORRY THAT THE LONDON SUPPLIERS' GUIDELINES MIGHT, IN EFFECT, SUPERSEDE OR SUBSTITUTE FOR THE PROVISIONS OF THE NON-PROLIFERATION TREATY. SOME OF THAT CONCERN IS REFLECTED IN THEIR PRESENTATION REPORTED IN REFTELS. IN ADDITION, HERPELS HINTED THAT THE FRENCH MAY BE THINKING OF USING THE LONDON GUIDELINES AS A MEANS OF LIMITING CERTAIN FEATURES OF THE EURATOM SAFEGUARDS SYSTEM.

--THE BELGIAN GOVERNMENT FINDS IT AWKWARD TO HANDLE LONDON GROUP MATTERS ON A CONFIDENTIAL BASIS. THEY HAVE BEEN CONSTRAINED THUS FAR FROM CONSULTING WITH THEIR NUCLEAR INDUSTRY, ESPECIALLY THOSE PARTS WHICH ARE IN PRIVATE HANDS. WITHOUT SUCH DISCUSSION, THERE IS NO WAY FOR THE GOVERNMENT

TO IMPOSE INDUSTRIAL COMPLIANCE WITH THE GUIDELINES.

--SIMILARLY, THE INFORMAL AND CONFIDENTIAL NATURE OF THE LONDON AGREEMENT PRESENTS PROBLEMS FOR THE BELGIAN GOVERNMENT IF IT MUST SEEK LEGISLATIVE AUTHORITY TO IMPLEMENT THE GUIDELINES. (ACCORDING TO HERPELS, THE FRENCH ARGUE TO THEIR EC PARTNERS THAT THERE IS NO CONFLICT BETWEEN THE LONDON GUIDELINES AND EC TREATY OBLIGATIONS PRECISELY BECAUSE THE LONDON ARRANGEMENTS DO NOT CONSTITUTE AN INTERNATIONAL AGREEMENT.)

10. IT WOULD BE HELPFUL IF WE COULD HAVE SOME GUIDANCE ON HOW TO RESPOND TO BELGIAN CONCERNS.

11. THIS MESSAGE WAS DRAFTED JOINTLY BY THE EMBASSY AND US MISSION EC. FIRESTONE

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